

2. Respondent is the holder of License No. 3246 issued by the Board for the practice of osteopathic medicine in the State of Arizona.

FINDINGS OF FACT

3. Patients C.C., M.C., and their two minor children were patients at Respondent's practice between 1995 and 2004. C.C. testified that the members of her family initially were patients of the prior owners of the practice, and they continued as patients to the practice after Respondent purchased it from the prior owners.

4. Between July 2007 and October 2008, C.C. made multiple requests for copies of the family's medical records in order to document a disability claim for M.C. and ensure the continuity of care for a minor child.

5. On or about October 2008, Respondent provided copies of C.C.'s medical records for care rendered between 1997 and 2003. Respondent stated that he could not find any of the other three sets of patient records.

6. Respondent failed to maintain and provide copies of medical records on a timely basis, and admitted he lost three patients' records.

CONCLUSIONS OF LAW

7. The conduct described above is a violation of unprofessional conduct pursuant to A.R.S. § 32-1854 (6), which states "Engaging in the practice of medicine in a manner that harms or may harm a patient or that the board determines falls below the community standard."

8. The conduct described above is a violation of unprofessional conduct pursuant to A.R.S. § 32-1854 (28), which states "Failing to make patient medical records in the physician's possession promptly available to a physician assistant, a nurse practitioner, a person licensed pursuant to this chapter or a podiatrist, chiropractor, naturopathic physician, physician or homeopathic physician licensed under chapter 7, 8, 13, 14, or 29 of this title on receipt of proper authorization to do so from the patient, a minor patient's parent, the legal guardian or the patient's authorized representative or failing to comply with title 12, chapter 13, article 7.1."

1 9. Title 12, chapter 13, article 7.1 includes A.R.S. § 12-2293, which states: "Except
2 as provided in subsections B and C of this section, on the written request of a patient or the
3 patient's health care decision maker for access to or copies of the patient's medical records and
4 payment records, the health care provider in possession of the record shall provide access to or
5 copies of records to the patient or the patient's health care decision maker."

6 10. The Board has taken action against Respondent's license prior to the Investigative
7 Hearing held on March 20, 2010, as follows:

8 (a) At its meeting on September 29, 2007 the Board issued a non-disciplinary
9 Letter of Concern to Respondent, based on concerns about his supervision of staff and
10 prescribing habits, and required Respondent to complete twenty (20) hours of continuing
11 medical education in appropriate prescribing of pain medications and pain management.

12 (b) At its meeting on September 12, 2009, the Board found that Respondent
13 had engaged in unprofessional conduct in that he did not response to multiple Board-
14 issued subpoenas and lacked communication with the Board. The Board levied a civil
15 penalty of \$250, which Respondent paid in a timely manner.

16 **ORDER**

17 Pursuant to the authority vested in the Board, **IT IS HEREBY ORDERED** that Lynn
18 Sweet, D.O., holder of osteopathic medical License number 3246,

- 19 1. Is issued a **DECREE OF CENSURE**;
- 20 2. Is placed on **PROBATION for a period of Two (2) Years** from the date this
21 Order is issued, subject to the following terms:

22 (a) Respondent shall complete twenty (20) hours of Continuing Medical
23 Education in medical record keeping and the Health Information Portability and Access Act
24 (HIPAA) within twelve (12) months of the effective date of this Order. All Continuing Medical
25 Education is to be pre-approved by the Executive Director.

1 (b) Respondent shall utilize a Board-approved practice monitor that will
2 provide to the Board an evaluation of Respondent's medical record keeping system and policies,
3 and that will monitor compliance with the evaluation. Respondent shall ensure that the practice
4 monitor provides an initial report to the Board within 90 days of the date of this order, and
5 quarterly thereafter during the probationary period.

6 (c) All costs of compliance are to be borne by Respondent.

7 3. Respondent shall obey all federal, state and local laws, and all rules governing the
8 practice of medicine in the State of Arizona.

9 4. Respondent shall appear in person before the Board or Board staff for interviews
10 upon request, upon reasonable notice.

11 5. Respondent shall immediately notify the Board in writing of any change in office
12 or home addresses and telephone numbers.

13 6. In the event that Respondent ceases to practice clinical medicine in the State of
14 Arizona, for any reason, Respondent shall notify the Board that he has ceased practicing in the
15 State of Arizona, in writing, within 10 days of ceasing to practice. The Board may stay the terms
16 of this Order until such time as the Respondent resumes the practice of medicine in the State of
17 Arizona, or may take other action to resolve the findings of fact and conclusions of law
18 contained in this Order for Probation.

19 7. Respondent's failure to comply with the requirements of this Order shall
20 constitute an allegation of unprofessional conduct as defined at A.R.S. § 32-1854(25); proven
21 violations may be grounds for further disciplinary action (e.g., suspension or revocation of
22 license).

23 8. **NOTICE OF RIGHT TO REQUEST REVIEW OR REHEARING**

24 Respondent has the right to request a rehearing or review of this matter pursuant to
25 A.R.S. § 41-1092.09. The request for rehearing or review must be filed with the Arizona Board
of Osteopathic Examiners within thirty (30) days. If Respondent requests a review or rehearing,

1 that request must be based on at least one of the eight grounds for review or rehearing that are
2 allowed under A.A.C. R4-22-106(D). Failure to file a motion for rehearing or review within 30
3 days has the effect of prohibiting Respondent from seeking judicial review of the Board's
4 decision. Service of this order is effective five (5) days after date of mailing. A.R.S. § 41-
5 1092.09(C). If a petition for rehearing or review is not filed, the Board's Order becomes
6 effective thirty-five (35) days after it is mailed to Respondent.



7 ISSUED THIS 31st DAY OF MARCH 2010.
8 ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
9 IN MEDICINE AND SURGERY

10 By: *Elaine LeTarte*
11
12 Elaine LeTarte, Executive Director

13
14 Original "Findings of Fact, Conclusions of Law and Order for Decree of Censure and Probation"
15 sent by certified mail, return receipt requested this 31st day of March, 2010 to:

16 Lynn Sweet, D.O.
17 Address of Record

18 Copies of this "Findings of Fact, Conclusions of Law and Order for Decree of Censure and
19 Probation" sent this 31st day of March, 2010 to:

20 Arizona Board of Osteopathic Examiners
21 In Medicine and Surgery
22 9535 East Doubletree Ranch Road
23 Scottsdale AZ 85258-5539

24 Camila Alarcon, AAG
25 Office of the Attorney General CIV/LES
1275 West Washington
Phoenix AZ 85007

7006 0810 0002 2000 6327